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IRVINE, CALIFORNIA

TARA K. CALLAHAN

DIRECT DIAL NUMBER  
(314) 259-2457

December 4, 2001

EPA Region 5 Records Ctr.



285409

*Via Facsimile (312/886-0747) and U.S. Mail*

Tom Turner  
Associate Regional Counsel  
U. S. EPA -- Region V  
Office of Regional Counsel  
77 W. Jackson Boulevard  
Chicago, IL 60604

RE: *Stellar Manufacturing Company*  
*RRG/Clayton Chemical Superfund Site, 1 Mobile Avenue, Sauget, IL*

Dear Mr. Turner:

I am writing to follow up on our December 3, 2001 telephone conferences regarding my client, Stellar Manufacturing Company's ("Stellar") relationship to the RRG/Clayton Chemical Superfund Site (the "Site").

As we discussed yesterday, Stellar is concerned about receiving U.S. EPA's General Notice letter. You indicated to me that Stellar was included in the first round of General Notice letter mailings, because Stellar is one of the top 31 contributors to the Site, and that each of the parties included in this first mailing contributed greater than 500,000 gallons of hazardous materials to the Site. However, as I explained to you yesterday, Stellar reviewed its files and only identified 4 shipments of used oil to the Site, amounting to a total of 19 drums, or approximately 1000 gallons of used oil. Attached for your review are copies of the 4 manifests Stellar has in its files showing shipments to the Site.

Upon your review of these manifests, you should see that, while Stellar's records are consistent with some of the data your office has regarding Stellar's contribution to the Site, there is an enormous discrepancy between the amount of material EPA attributes to Stellar (735, 142 gallons) and the amount evidenced by Stellar's records (approximately 1000 gallons). Three similarities exist between your data and Stellar's documents. First, you indicated yesterday that

cc: Bill Ryzek, E  
Ent spec  
E.6  
12/4/01

**BRYAN CAVE LLP**  
ONE METROPOLITAN SQUARE  
211 NORTH BROADWAY, SUITE 3600  
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TO: Tom Turner  
COMPANY: US EPA Region V  
FAX NUMBER: 312/886-0747  
PHONE NUMBER: 312/886-6613

TO:  
COMPANY:  
FAX NUMBER:  
PHONE NUMBER:

FROM: Tara K. Callahan  
DATE: December 4, 2001  
PHONE NUMBER: (314) 259-2457

MATTER: 070798

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 8

MESSAGE FROM SENDER:

If you experience difficulty in receiving this facsimile, please call Michele Bailey at (314) 259-2975.

This facsimile contains information which may be legally privileged, proprietary in nature, or otherwise protected by law from disclosure and is intended only for the use of the addressee(s) named above. If you are not the addressee, or the person responsible for delivering this facsimile to the addressee(s), you are hereby notified that reading, copying or distributing this facsimile is prohibited. If you have received this facsimile in error, please telephone us immediately and mail the facsimile to us at the above address. Thank you.

December 4, 2001

Page 2

your records show a total of 4 shipments from Stellar to the site. Correspondingly, Stellar has identified through its document review only 4 manifests of shipments to the Site. Second, the document you provided by fax to me today is an Illinois EPA Hazardous Waste Report for 1997, presumably an annual report completed and filed by RRG. This report shows that Stellar sent a total of 605 units of waste petroleum distillates at 7.5 lb/gallon to the Site in 1997. While you indicated that the form did not provide the unit of measurement modifying the "605," a comparison to Stellar's manifests make clear that the unit is gallons. The 605 "units" sent to the Site in 1997 by Stellar agrees precisely with Stellar's two manifests for shipments to the Site in 1997. As you will see from the enclosed manifests, on July 8, 1997, Stellar sent one shipment of 7 drums, or 385 gallons, of "waste flammable liquid" to the Site, and on October 12, 1997, Stellar sent one shipment of 4 drums, or 220 gallons, of "waste flammable liquid" to the Site. These two shipments combined equal 605 gallons of material sent by Stellar to the Site in 1997. While you did not provide the other documents reflecting Stellar shipments to the Site, you did tell me that your documents showed a total of 4 shipments by Stellar to the site made up of 1 shipment totaling 605 units and 3 shipments totaling 3,636 units of material. The two remaining manifests enclosed show that Stellar sent two shipments to the Site in 1998: one shipment on February 25, 1998 of 4 drums, or 1780 pounds of "waste flammable liquid," and one shipment on June 10, 1998 of 4 drums, or 1856 pounds, of "waste flammable liquid." Combined, these shipments total 3,636 pounds of material and thus correspond exactly with your data. Because Stellar's records conform with the data you have from IEPA, we believe that there has been some kind of transcription or computation error that resulted in attributing to Stellar 735,142 gallons of materials that it allegedly sent to the Site.

After your review of the enclosed manifests, I am certain that you will realize that Stellar's contribution to the Site is *de minimis* at most. In fact, Stellar should be considered a *de micromis* party. Given your explanation that the generators identified in the first notice letter mailing sent at least 500,000 gallons of materials to the site, the amount of waste sent to the Site by these parties alone totals 15,000,000 gallons (not including Stellar's share). Since Stellar sent approximately 1000 gallons of used oil to the site, Stellar's share, at this point, is .0000645% of the total volume (and this does not even account for materials sent by all the other PRPs not yet identified). US EPA's policy under the June 3, 1996 Revised Guidance on CERCLA Settlements with *de micromis* Waste Contributors is not to pursue parties whose contribution is equal to or less than .002% of the total volume of materials containing hazardous substance. Clearly, Stellar's contribution of .0000645% to the total volume of materials at the Site makes Stellar a perfect candidate for *de micromis* treatment.

Accordingly, we are asking your office to withdraw its letter as to Stellar. From our conversation, the purpose behind mailing the first round of general notice letters is to encourage the major PRPs to form a group so that they may take the lead in performing the response actions outlined in the letter. I'm sure you would agree that, because Stellar qualifies as a *de micromis* contributor, it does not make sense to require Stellar to expend the necessary time,

December 4, 2001

Page 3

money and effort it would take to organize or perform any of the response activities at the Site. In fact, proceeding against Stellar runs contrary to EPA's own policy to resolve quickly and fairly the liability of small volume waste generators through *de micromis* settlements. The EPA states in its June 3, 1996 Revised Guidance on CERCLA Settlements with *de micromis* Waste Contributors:

"... for many *de minimis* parties, the cost of legal representation, absent early settlement, may exceed those parties' proportional share of responsibility. For these reasons, EPA has redoubled its efforts to resolve the liability of small volume contributors. These efforts are not enough, however, for those parties whose contributions are so small that their shares of responsibility are in effect zero. For these *de micromis* parties, the administrative costs of determining and verifying the party's share, if any, and the cost of collecting the small payment required through a *de minimis* settlement could far exceed that share. Therefore, as a matter of national policy, EPA intends to use its authority ... to review and resolve the potential liability of *de micromis* parties without incurring such costs."

Because of Stellar's *de micromis* contribution to the Site and in keeping with EPA's own mandate to quickly resolve *de micromis* liability, we would greatly appreciate a written response from your office, withdrawing the notice letter as to Stellar.

Thank you for your attention to this matter. If you have any questions or concerns regarding any of the issues discussed herein, please do not hesitate to contact me.

Sincerely,



Tara K. Callahan

Enclosure.

cc: Tom Connelly, Jr.

F.O. BOX 18226

SPRINGFIELD, ILLINOIS 62794-9276 (317) 782-6761  
State Form LFC 62 881 6/98-08101553 FOR SHIPMENT OF HAZARDOUS  
AND SPECIAL WASTE

## PLEASE TYPE

(Form designed for use on 12 pitch typewriter.)

EPA Form 5700-02 (Rev. 6-95)

Form Approved, OMB No. 2040-0008

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>		1. Generator's US EPA ID No. MOD983798044		Manifest Document No. 98-32		2. Page 1 of 1		Information in the shaded areas is not required by Federal law, but is required by State law.					
3. Generator's Name and Mailing Address Stellar Manufacturing 131 Byassee DR Hazelwood MO 63042 4. 24 HOUR EMERGENCY AND SPILL ASSISTANCE NUMBERS: 314-895-4700				Location if Different		A. Illinois Manifest Document Number IL 7475163 FEE PAID IF APPLICABLE							
5. Transporter 1 Company Name SWS				6. US EPA ID Number ILD 984792705		B. Illinois Generator's ID 9290019994							
7. Transporter 2 Company Name				8. US EPA ID Number		C. Illinois Transporter's ID 2086							
9. Designated Facility Name and Site Address Resource Recovery Group #1 Mobile Street Sauget IL 62201				10. US EPA ID Number ILD066918327		D. (SIB) 398-5880 Transporter's Phone							
						E. Illinois Transporter's ID							
						F. ( ) Transporter's Phone							
						G. Illinois Facility's ID 1631210004							
						H. Facility's Phone (618) 271-0467							
11. US DOT Description (including Proper Shipping Name, Hazard Class, and ID Number)						12. Containers No. Type		13. Total Quantity		14. Unit Wt/Vol		1. Waste No.	
a. Waste Flammable Liquid, n.o.s., 3, UN1993, PGII (Waste Oil)						0 0 4 0		01780				EPA HW Number XX 0 0 0 1 Identification Number 0 0 0 1 2 5	
b.												EPA HW Number XX Identification Number	
c.												EPA HW Number XX Identification Number	
d.												EPA HW Number XX Identification Number	
15. Special Handling Instructions and Additional Information						K. Handling Codes for Proper Disposal in Reg 261 G = Gallons							
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, and disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.						Lic # IL P 217803							
17. Transporter 1 Acknowledgment of Receipt of Materials						Signature of Gene Addison Date 02/15/98							
18. Transporter 2 Acknowledgment of Receipt of Materials						Signature of Brian Medford Date 02/15/98							
19. Discrepancy Indication Space													
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in item 13.						Date							
Printed/Typed Name						Signature							

This Agency is authorized to require, pursuant to Illinois Revised Statutes, 1980, Chapter 111 1/2, Section 1004 and 1021, that the information be submitted to the Agency. Failure to provide this information may result in a civil penalty against the owner or operator not to exceed \$25,000 per day of violation. Prosecution of this information may result in a fine up to \$50,000 per day of violation and imprisonment up to 5 years. This form has been approved by the Forms Management Center.

COPY 1. TSD MAIL TO GENERATOR

12/04/01 18:03

P.O. BOX 18278

SPRINGFIELD, ILLINOIS 62794-8278 (217) 782-8761

State Form UPC 02 001 ILL-02-010

FOR SHIPMENT OF HAZAR  
AND SPECIAL WASTE

## PLEASE TYPE

(Form designed for use on office (12 pitch) typewriter.)

EPA Form 3700-02 (Rev. 9-88)

Form Approved, OMB No. 2010-0020

UNIFORM HAZARDOUS  
WASTE MANIFEST

1. Generator's US EPA ID No.

MOD 985796044 1970021

2. Page 1

Information in the shaded areas is  
required by Federal law, but is required  
only if law.

3. Generator's Name and Mailing Address

STELLAR MANUFACTURING  
131 BYASSEE DR  
HAZELWOOD, MO 63042

Location if Different

A. Manifest Document Number

IL 7450586 FEE PAID  
IF APPLICABLE

4. 24 HOUR EMERGENCY AND SPILL ASSISTANCE NUMBERS

314-895-4700

B. Manifest  
Generator's  
ID

929001999

5. Transporter 1 Company Name

SWS

6.

US EPA ID Number

ILD 984792705

C. Manifest Transporter's ID

21618

7. Transporter 2 Company Name

8.

US EPA ID Number

D. Manifest Transporter's ID

Transporter's Phone

9. Designated Facility Name and Site Address

RESOURCE RECOVERY GROUP  
1 MOBILE ST  
SAUGET, IL 62201

10.

US EPA ID Number

ILD 066918327

G. Manifest  
Facility's  
ID

1163121000

H. Facility's Phone

618 271-0467

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

WASTE FLAMMABLE LIQUID, N.O.S.,  
3, UN1993, PG-II (WASTE OIL) ORG 126

12. Containers

No.

Type

13. Total  
Quantity14. Unit  
Wt/VolL  
Waste No.

004

DM

99230

G

EPA HW Number

XXD0001

Accession Number

0001215

EPA HW Number

XXI

Accession Number

XX

Accession Number

XX

Accession Number

XX

Accession Number

XX

Accession Number

15. Special Handling Instructions and Additional Information

LICF 217813 IL

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by  
proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway  
according to applicable international and national government regulations.If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to  
be economically practicable and that I have selected the practicable method of treatment, storage, and disposal currently available to me which minimizes the pres-  
ent and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation  
and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

G E Addison

Signature

G E Addison

Date

Month Day Year

12/2/97

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name

I Am J. Bonds

Signature

I Am J. Bonds

Date

Month Day Year

10/2/97

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Date

Month Day Year

19. Discrepancy Indication Space

20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in item 19.

Printed/Typed Name

F L LIGHTFOOT

Signature

F L LIGHTFOOT

Date

Month Day Year

12/21/97

This Agency is authorized to receive, pursuant to Illinois Revised Statute, 1960, Chapter 111 1/2, Section 1004 and 1001, and the information is submitted to the Agency. Failure to provide this  
information may result in a civil penalty against the owner or operator not to exceed \$25,000 per day of violation. Prosecution of this information may result in a fine up to \$50,000 per day of violation and  
imprisonment up to 5 years. This form has been approved by the Waste Management Center.

(Form designed for use on 600 (12 pack) typewriter.)

EPA Form 1700-2 (Rev. 4-80)

Form Approved, OMB No. 0705-0050

This Agency is authorized to require, pursuant to 44 USC revised Statute, 1988, Chapter 111 1/2, Section 1004 and 1021, that all information be submitted to the Agency. Failure to provide this information may result in a civil penalty against the owner or sponsor not to exceed \$25,000 per day of violation. Falsification of the information may result in a fine up to \$50,000 per day of violation and imprisonment up to 5 years. This form has been submitted by the Central Information Center.

**P.O. BOX 15270**

SPRINGFIELD, ILLINOIS 62761-2729 (317) 782-5701

Slide Form LPC 82 621 L-4010

FOR SHIPMENT OF HAZARDOUS  
AND SPECIAL WASTE

**PLEASE TYPE**

(Form designed for use on site (12 pitch) typewriter.)

EPA Form 8700-22 (Rev. 4-80)

Form Approved, OMB No. 2050-0137

<b>HAZARDOUS WASTE MANIFEST</b>		1. Generator's US EPA ID No. MOD 985796044		Manifest Document No. 33	2. Page 1 Information in the shaded areas is not required by Federal law, but is required by Illinois law.	
3. Generator's Name and Mailing Address Stellar Manufacturing 131 Bypass Drive Bazelwood Mo 63042				Location if Different		
4. 24 HOUR EMERGENCY AND SPILL ASSISTANCE NUMBERS* 314-895-4700						
5. Transporter 1 Company Name CWI		6. US EPA ID Number ILD 984 792 705		A. Illinois Manifest Document Number IL 7575979 FEE PAID IF APPLICABLE		
7. Transporter 2 Company Name		8. US EPA ID Number		B. Illinois Generator's ID 9219001191914		
9. Designated Facility Name and Site Address Resource Recovery Group #1 Mobile Street Sauget IL 62201		10. US EPA ID Number ILD 066918327		C. Illinois Transporter's ID 12161816 D. 618 465-0269 Transporter's Phone		
11. US DOT Description (including Proper Shipping Name, Hazard Class, and ID Number)		12. Containers No. Type		13. Total Quantity 14. Unit Wt/Vol 15. Waste No.		
a. Waste Flammable Liquid, n.o.s., 3, UN1993, PGII (Waste Oil)		0-0-4 D 21856		p X X 1993 1125 EPA HW Number X X 1125 EPA HW Number X X 1125 EPA HW Number X X 1125 EPA HW Number X X 1125		
b.						
c.						
d.						
16. Additional Description for Manifests Listed Above				17. Handling Codes for Manifests Listed Above B-1 P-Residuals		
18. Special Handling Instructions and Additional Information RRG# 10243 TSD to mail TSD to mail Certificate of Recovery/Destruction to Generator						
19. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, and disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.						
Printed/Typed Name GENE ADDISON		Signature of Gene Addison		Date 04/16/78		
17. Transporter 1 Acknowledgment of Receipt of Materials		Signature Brian M. Ford		Date 06/10/78		
18. Transporter 2 Acknowledgment of Receipt of Materials		Signature		Date		
19. Discrepancy Indication Space						
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 18.						
Printed/Typed Name Aric L. Walker		Signature Aric L. Walker		Date 06/10/78		

**COPY 1, TSD MAIL TO GENERATOR**